



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

August 20, 1976

76-267
R 76-281
BRUCE E. BABBITT
ATTORNEY GENERAL

R. Bruce Scott, P.E.
Assistant Director
Division of Environmental
Health Services
Phoenix, Arizona 85007

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Dear Mr. Scott:

In your letter of July 15, 1976 you requested the opinion of this office on the following question:

Who has the responsibility for collecting fees charged for official vehicle emissions inspections (mandated by A.R.S. § 36-1772) between September 23, 1976 and January 1, 1977?

Chapter 182, Laws 1976 (H.B. 2080), will become effective on September 23, 1976. Section 5 of that measure amends A.R.S. § 36-1773(C) as follows:

The fees charged for official emissions inspection shall be uniform as applied to each class of vehicle which shall be defined by the director. Except for fees collected by the director pursuant to section 36-1776, AFTER DECEMBER 31, 1976 the inspection fee shall be collected with the registration fee by the county assessor at the time and place of motor vehicle registration pursuant to title 28, chapter 3, article 17 and: FEES REQUIRED TO BE PAID PURSUANT TO THIS ARTICLE SHALL BE COLLECTED AT THE EMISSIONS INSPECTION STATION BY THE INDEPENDENT CONTRACTOR OR BY THE DEPARTMENT IF DEEMED NECESSARY BY THE DIRECTOR. THE INDEPENDENT CONTRACTOR SHALL FORWARD SUCH INSPECTION FEES TO THE



R. Bruce Scott, P.E.
August 20, 1976
Page Two

DEPARTMENT IN ACCORDANCE WITH THE
RULES AND REGULATIONS ADOPTED BY
THE DIRECTOR.

Until September 23, 1976, § 36-1773.C requires that such fees be collected by the appropriate County Assessor. On September 23, 1976, the language setting forth this duty of the County Assessor will be removed from the statute. This excision appears to leave no one with the responsibility for collecting such fees until January 1, 1977 when fee collection becomes the responsibility of the Department of Health Services or the independent contractor. A.R.S. § 36-1772.D prohibits vehicles from being registered or reregistered unless they have been "emissions inspected". Additionally, A.R.S. § 36-1773.A charges the director with the setting of a fee that is "required to be paid for the inspection of every vehicle inspected pursuant to this article." Yet it appears that the Legislature has neglected to provide for fee collection responsibility between September 23, 1976 and January 1, 1977.

Fortunately, our Supreme Court has long made it clear that in construing a statute, the spirit of the enactment must be considered and absurd or inconvenient results avoided if possible:

If ' . . . a literal [interpretation] of the language leads to a result which produces an absurdity, it is our duty to construe the act, if possible, so that it is a reasonable and workable law. . . . ' Garrison v. Luke, 52 Ariz. 50, 78 P.2d 1120. In Keller v. State, 46 Ariz. 106, 47 P.2d 442, we even went so far as to say:

' . . . [W]hen the literal language of a statute will result in an absurdity, an impossibility, or a meaning which . . . is clearly at variance with the legislative intent, courts may and will alter, modify, or supply words to the statute in order to give effect to the manifest intention of the Legislature.'

See, also, State ex rel. Industrial

R. Bruce Scott, P.E.
August 20, 1976
Page Three

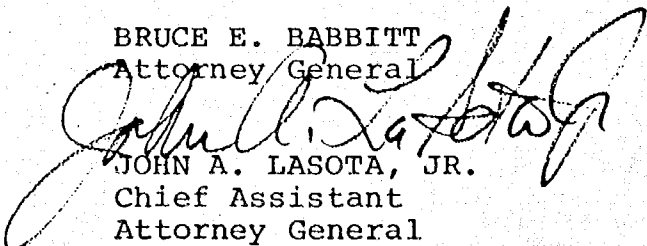
Commission v. Pressley, 74 Ariz.
412, 250 P.2d 992.

Likewise, we have repeatedly said that where a court must resort to construction, the results and consequences of the proposed construction will be considered and objectionable results will be avoided, particularly where the construction would result in absurd consequences. State Board of Dispensing Opticians v. Schwab, 93 Ariz. 328, 380 P.2d 784; Isley v. School District No. 2, 81 Ariz. 280, 305 P.2d 432; Local 266, etc. v. Salt River Project Agr. Imp. & Power Dist., 78 Ariz. 30, 275 P.2d 393; Frye v. South Phoenix Volunteer Fire Co., 71 Ariz. 163, 224 P.2d 651; State v. Airesearch Mfg. Co., 68 Ariz. 342, 206 P.2d 562; Town of Florence v. Webb, 40 Ariz. 60, 9 P.2d 413. (Brackets in original.) City of Phoenix v. Superior Court, 101 Ariz. 265, 267, 419 P.2d 49 (1966).

Clearly, an absurdity results if enactment of Ch. 182 is interpreted as continuing the requirement of fee collection but concomitantly removing any collection mechanism for the period September 23, through December 31, 1976. Thus, we conclude that the Legislature intended to maintain the fee collection status quo until January 1, 1977; that is, until January 1, 1977 emissions inspection fees would continue to be collected by the Maricopa and Pima County Assessors at the time of vehicle registration.

Sincerely,

BRUCE E. BABBITT
Attorney General



JOHN A. LASOTA, JR.
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